
(2023) 02 NCLT CK 0020

In the National Company Law Tribunal

Case No : CP (CAA) No. 35/Chd/Hry/2022 (Second Motion)

?Jindal Stainless Limited Vs

Date of Decision : 02-02-2023

Acts Referred:

Companies Act, 2013 — Section 13, 66, 133, 187, 230, 232, 232(3Xi)
Income Tax Act, 1961 — Section 72A, 79, 170(2A)

Citation : (2023) 02 NCLT CK 0020

Hon'ble Judges : Harnam Singh Thakur, Member (J); Subrata Kumar Dash, Member (T)

Bench : Division Bench

Advocate : Rohit Khanna, Raghav Kapoor, Abhishek Tewari, Parth Dua, Sukant Gupta, Vaibhav Gupta

Final Decision : Disposed Of

Judgement

Subrata Kumar Dash, Member (Technical)

1. This is a joint second motion company petition filed by the Petitioner Companies namely; Jindal Stainless Limited (Amalgamated Company / Petitioner Company No. 1), Jindal Stainless (Hisar) Limited (Amalgamating Company No. 1 / Petitioner Company No. 2), JSL Lifestyle Limited (Demerged Company / Amalgamating Company No. 2 / Petitioner Company No. 3), JSL Media Limited (Amalgamating Company No. 3 / Petitioner Company No. 4), Jindal Stainless Corporate Management Services Private Limited (Amalgamating Company No. 4 / Petitioner Company No. 5) and Jindal Lifestyle Limited (Resulting Company / Petitioner Company No. 6), under 230-232 and Section 66 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013 (for brevity, the 'Act') read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (for brevity 'Rules') in relation to the Composite Scheme of Arrangement amongst the Petitioner Companies.

2. The Petitioner Companies have prayed for sanctioning of the Composite Scheme of Arrangement amongst the respective companies. The said Scheme of Arrangement is attached as Annexure- A1 of the petition.

3. The First Motion Application seeking directions for dispensing/ convening with the meetings of Equity Shareholders, Secured and Unsecured Creditors of the Petitioner Companies was filed before this Tribunal by Company Application No. CA [CAA] No. 14/CHD/HRY/2021 and based upon such application moved under Section 230-232 and Section 66 of the Act necessary directions were issued on 25.02.2022 (modified vide order dated 03.03.2022). In the order dated 25.02.2022, the meetings of (i) equity shareholders of Petitioner Companies Nos. 3, 4, 5 and 6; (ii) Secured Creditors and Unsecured Creditors of Petitioner Companies Nos. 4, 5 and 6 were dispensed with for the reasons mentioned in the aforesaid order. The meetings of the equity shareholders, secured creditors and unsecured creditors of Petitioner Companies Nos. 1 and 2 were to be convened on 23.04.2022 and of secured creditors and unsecured creditors of Petitioner Company No. 3 were convened on 24.04.2022.

4. The appointed Chairperson, Alternate Chairperson and Scrutinizer have filed their reports which are detailed as hereunder:-

Sr.

No.

Meeting of

Chairpersons

/Alternate Chairperson/ Scrutinizer

Chairperson's Report

Date of meeting

Date of filing

Date of Report

1.

Equity Shareholder of Applicant Company No. 1

Mr. Puneet Bali, Senior Advocate, Chairperson

Mr. Akaant Kumar Mittal, Advocate, Alternate Chairperson Mr. Mast Ram, PCS, Scrutinizer

Diary No.00457/ 13

Dated 02.05.2022

28.04.2022

23.04.2022

2.

Secured Creditor of Applicant Company No. 1

Diary No.00457/ 14 Dated 02.05.2022

28.04.2022

23.04.2022

3.

Unsecured Creditor of Applicant Company No. 1

Diary No.00457/ 15

Dated 02.05.202

2

28.04.202

2

23.04.2022

4.

Equity Shareholder of Applicant Company No. 2

Mr. Balvinder Singh, Retd. (Member Technical NCLAT),
Chairperson

Ms. Jyoti Sareen, Advocate, Alternate Chairperson Mr. Ajay Bhagwati,
Advocate, Scrutinizer

Diary No. 00457/18

Dated 02.05.202

2

29.04.202

2

23.04.2022

5.

Secured Creditors of Applicant Company No. 2

Diary No. 00457/20

Dated 02.05.202

2

29.04.202

2

23.04.2022

6.

Unsecured Creditors of Applicant

Diary No. 00457/21

29.04.202

2

23.04.2022

Company No. 2

Dated 02.05.202

2

7.

Secured Creditors of Applicant Company No. 3

Mr. Puneet Bali, Senior Advocate Chairperson,

Mr. Akaant Kumar Mittal, Advocate, Alternate Chairperson

Mr. Mast Ram, PCS, Scrutinizer

Diary No. 00457/16

Dated 02.05.202

2

28.04.202

2

24.04.2022

8.

Unsecured creditors of Applicant Company No. 3

Diary No. 00457/17

Dated 02.05.202

2

28.04.202

2

24.04.2022

5. The Chairpersons' filed its Reports by Dairy No. 00457/13 to 00457/21, all dated 02.05.2022. In the case of Applicant Company No. 1, the scheme has been approved by 99.99% by Equity Shareholders, 100% by Secured Creditors and 99.35% by Unsecured Creditors. In the case of Applicant Company No.2, the scheme has been approved by 99.99% by Equity Shareholders, 100% by Secured Creditors and 100% by Unsecured Creditors. In case of Applicant Company No.3, the scheme has been approved by 100% by the Secured Creditors and 99.95% by Unsecured Creditors.

6. The main objects, date of incorporation, authorized and paid-up share capital, and the rationale of the Scheme of Arrangement had been discussed in detail in the order dated 25.02.2022.

7. As per the Scheme of Arrangement (Annexure-A1 of the application), the Petitioner Company No. 2/Amalgamating Company No. 1 is merging into Petitioner Company No. 1/ Amalgamated Company as mentioned in the Part B of the Scheme. Thereafter, as mentioned in Part C of the scheme, the Demerged Business Undertaking of Petitioner Company No. 3/Amalgamating Company No. 2/Demerged Company will be vested with Resulting Company/Petitioner Company No. 5. Subsequently, the remaining business of Petitioner Company No. 3/Amalgamating Company No. 2/Demerged Company and Petitioner Company No. 4 and 5 will be vested with the Petitioner Company No. 1/Amalgamated Company as enumerated in Part D, E and F of the scheme.

8. In the second motion proceedings, certain directions were issued by this Tribunal by order dated 13.07.2022 and the same were complied with by the Petitioner Companies. The Petitioner Companies filed compliance affidavits by Diary No. 00883/03 dated 04.10. 2022. The notice of hearing was published in newspapers namely, "Financial Express" (English, Delhi NCR Edition) and "Jansatta" (Hindi, Delhi NCR Edition) on 22.09.2022. The original copies of the newspapers are attached as Annexure- 2 to the aforesaid respective affidavit. It is also stated in the aforesaid affidavits that copies of notices were served upon the (1) Central Government through Regional Director (Northern Region), Ministry of Corporate Affairs; (2) Registrar of Companies for New Delhi and Haryana; (3) Official Liquidator (attached to the Hon'ble High Court of Punjab and Haryana); (d) jurisdictional Income Tax Department, by all Petitioner Companies by way of speed post. Additionally, Petitioner Companies Nos. 1 and 2, have also served notices to (i) Securities Exchange Board of India (SEBI); (ii) National Stock Exchange of India Limited (NSE) and (iii) Bombay Stock Exchange (BSE). Original speed post receipts are attached as Annexure – 3 of the aforesaid respective of the aforesaid affidavit.

9. It is deposed by authorized signatories of the Petitioner Companies that they have not received any objections in relation to the scheme either from any sectoral regulators/statutory authorities or from the public. The aforesaid affidavit has been filed vide Diary No. 00883/03 dated 04.10.2022.

10. In response to the abovementioned notices, the statutory authorities have furnished their replies.

10.1 Registrar of Companies (RoC)/Regional Director (RD)

10.1.1. The Registrar of Companies (RoC) has filed its report along with the report of the Regional Director (RD), by Diary No. 00883/5 dated 27.10.2022. Para 10 of the Regional Director's report sets out observations of the Regional of Companies (RoC) dated 10.10.2022 which reads as : -

? "In respect of Amalgamating Company 4, the auditor has pointed out that title deeds of immovable properties having gross carrying value of Rs.3169.51 lakhs are not held in the company. The company may be asked to clarify regarding compliance of section 187 of the Companies Act. 2013.

? In the following two instances amalgamation is proposed without any consideration, so valuer has not valued.

? Since amalgamating company no.3 is a wholly owned subsidiary of amalgamating company no.1 no consideration will be paid.

? The shares of amalgamating company No. 4 are held in equal proportions in amalgamated company and amalgamating company no.1, so no consideration will be paid in this respect.

? The schedule of assets & liabilities of the de-merged company have not been enclosed.

? Refer to Clause 13 of Part B/Clause 26 of Part C of the Scheme, the Amalgamated company/Resulting company may kindly be directed to comply with the provision of section 232(3Xi) of the Companies Act 2013 in regard to fee payable on its revised authorized share capital, if applicable."

10.1.2. The petitioner companies have submitted a reply to the queries raised by the Registrar of Companies and para 12 of the Regional Director's Report also points out the reply of petitioner companies wherein it has been stated that the Amalgamated Company i.e. Jindal Stainless Limited and the Transferor Company-1 i.e. Jindal Stainless (Hisar) Limited are listed companies whose shares are listed in BSE & NSE and The De-merged Company namely JSL Lifestyle Limited is a subsidiary of Amalgamated Company No. 1 and after demerger of the non-mobility business to the Resulting Company, the remaining business shall be merged with the Transferee Company. The Amalgamating Company No. 3 i.e. JSL MEDIA LIMITED is a wholly owned subsidiary of Amalgamating Company No. 1. It is also stated that the title of the immovable properties of Rs 31.70 crores which are not in the name of the Amalgamating Company No. 4 can be transferred to the Transferee Company subject to procedural compliances on the order of the Hon'ble Tribunal.

10.1.3. The Regional Director has also made certain observations In para 12 (ii) to (iv) which are reproduced as below:-

ii. On examination of the contents of scheme enclosed with the Petition, it is found that para-14.1, 39.1 and 48.1 of the scheme speaks about the amendment of the object clause of the Memorandum of Association of the Transferee Company which does not falls under the ambit of the provisions of section 230-232 of the Act. For amendment of object clause of the MOA, the Transferee Company is required to comply with the provisions of section 13 of the Act which includes filing of documents with the ROC to give effect of change in object clause of the Company. In view of the above, it is prayed before the Hon'ble Tribunal to direct the Petitioner Transferee Company to comply with provisions of section 13 of the Companies Act, 2013.

iii. Para- 28 of the scheme speaks about the Accounting treatment of Assets and Liabilities transferred from the De-merged Company to the Resulting Company which inter-alia speaks that:

"The difference between the face value of the shares issued by the Resulting Company to the shareholders of the De-merged Company as per clause-24 and the net book value of the Assets & Liabilities vested from the De-merged Company, shall be recorded as General Reserve

In view of the above, it is to submit that such statement is not correct since the difference as arise is not generated out of the operational activities of the Company, thereby, such difference shall be Capital Reserve only.

iv. The scheme partakes De-merger of Non- Mobility Business undertaking of the Demerged Company and that to be merged with the Resulting Company, but the scheme is silent about the details of Assets & Liabilities to be transferred from the De-merged Company to the Resulting Company on post-sanction of the scheme. In a reply to the query, the Petitioner Transferee Company has submitted the details of the Assets & Liabilities to be transferred from the De-merged Company to the Resulting Company which copy is enclosed herewith and marked as Annexure-D, the same may also be made part of the order."

10.1.4. In response to the report of the Registrar of Companies/ Regional Director, the Petitioner Companies Nos. 1, 4 and 5 have filed their affidavit in response by Diary No. 00883/8 dated 09.11.2022 stating that the shareholders of Petitioner Company No. 1 have approved the resolution approving the scheme in their meeting convened on 23.04.2022. The amended object clause of MoA of Petitioner Company No. 1 is an integral part of the scheme and Petitioner Company No. 1 undertakes to file all necessary forms with the Registrar of Companies and take further steps as required under the Companies Act, 2013 in connection with the proposed amendment of the object clause. Petitioner Company No. 1 further undertakes to comply with all procedural compliances as directed by this Tribunal.

10.1.5. The Petitioner Companies Nos. 2, 3 and 6 have filed their affidavit by Diary No. 00883/11 dated 09.12.2022 stating that the petitioner Companies have also filed the certificate from its Statutory Auditors certifying that the

accounting treatment proposed in the Scheme of Arrangement for Petitioner Company No. 3/ Demerged Company and Petitioner Company No. 6/ Resulting Company is in accordance with Ind-A 103 and in compliance with the applicable accounting standards as provided under the Act which is attached as Annexure -20 of the petition. As per paragraph 27 (ii) of the Scheme 'The difference between book values of asset and book values of liabilities of the Demerging Undertaking shall be adjusted against general reserve of Demerged Companies'. The petitioner Companies have also placed reliance on the order passed by National Company Law Tribunal, Ahmedabad Bench in the case of Arti Industries Limited and Arti Pharmed Labs Limited dated 21.09.2022 wherein similar accounting treatment has been approved. A reliance is further placed on the orders passed by the National Company Law Tribunal, Hyderabad Bench in case of Suven Life Sciences Limited and Suven Pharmaceuticals Limited CP(CAA) 658/230/HDB/2019 Dated 06.01.2020 and M/s Maheshwari Oil Industries Private Limited and M/s Mahesh Fats and Oil Private Limited CP(CAA) 1/230/HDB/2022 Dated 19.10.2022. In view of the submissions made above, no specific directions to the Petitioner Companies in this regard is called for.

10.1.6. Necessary directions with regard to the change in the object clause of Amalgamated Company and for the details of assets and liabilities of the Petitioner Companies is made in the subsequent paragraphs of this order. On a perusal of the report and the responses of the Petitioner Companies, it is seen that the observations raised by the RD/RoC stand duly explained and satisfied.

10.2 Official Liquidator

10.2.1. The Official Liquidator has filed his report vide Diary No.00883/6 dated 02.11.2022. The Official Liquidator in its report has reproduced the information on the incorporation of the Petitioner Companies, their capital structure, financial highlights, shareholding, etc. The Official Liquidator has also reproduced the extracts of Reports of the Statutory Auditors of the Petitioner Companies on the Financial Statements. It is also stated that pursuant to the Scheme of Arrangement becoming effective, the Amalgamating Company No. 1, Amalgamating Company No. 2, Amalgamating Company No. 3 and Amalgamating Company No. 4 shall stand dissolved without being wound up or liquidated.

10.2.2. Thus, the Official Liquidator has made no adverse observations with regard to the proposed composite Scheme of Arrangement.

10.3 Income Tax Department

10.3.1 The Income Tax Department filed its report by Diary Nos. 00883/7 dated 03.11.2022, 00883/9 dated 29.08.2022, Diary No. 246 dated 14.06.2022, Diary No. 595 dated 17.10.2022 and Diary No. 599 dated 19.10.2022 in respect of the Petitioner Companies stating that there is a demand pending in respect of petitioner companies and penalty proceedings are also pending in respect of Amalgamated Company. There is a carried Forward loss in Petitioner Company

No. 4. It is also stated that the Department reserves its right to determine the tax implications of the amalgamation/merger contemplated under the Scheme in accordance with the provisions of the Income Tax Act, 1961 and the provisions of the Income Tax Act, 1961 shall prevail over anything contrary provided under the Scheme. The Income Tax Department has stated that the approval may be granted subject to the undertaking given by the Petitioner Companies.

10.3.2 The Petitioner-Companies have filed an affidavit dated 15.09.2022, stating that Upon Scheme becoming effective and with effect from the Appointed Date, all tax assessment proceedings and appeals of whatsoever nature by or against the Amalgamating Company, pending or arising as at the Effective Date, shall be continued and/enforced by or against the Amalgamated Company in the same manner and to the same extent as would or might have been continued and enforced by or against the Amalgamating Company. Further, the aforementioned proceedings shall neither abate or be discontinued nor be in any way prejudicially affected by the reason of the amalgamation of the Amalgamating Company with the Amalgamated Company or anything contained in this Scheme.

10.3.3 In this context, this Tribunal is not shutting out the legitimate interest of the income-tax authorities to recover the lawful dues payable by the Petitioner Companies, and the Scheme of Arrangement provides for savings in relation to the liabilities. Accordingly, the rights of the tax authorities remain intact, and they can proceed against the companies in accordance with the law, if any amount is found due and payable.

10.3.4 Thus, the Income Tax Department in its report has made no adverse observations against the proposed Scheme of Arrangement.

11. The petitioner companies have also served notices to Bombay Stock Exchange Limited (B.S.E.), National Stock Exchange of India Limited (NSE) and Securities and Exchange Board of India (SEBI) and Copies of notices issued are attached as Annexure- A 2 of Diary No.00883/03 dated 04.10.2022. However, there is no reply from the concerned authorities till now. Considering the lapse of time in the matter, it is presumed that there is no objection to the proposed Scheme of Arrangement.

12. The certificate of the statutory auditors with respect to the Scheme of Arrangement amongst the Petitioner Companies to the effect that the accounting treatment proposed in the Scheme of Arrangement is in compliance with applicable Indian Accounting Standards (Ind AS) as specified in Section 133 of the Act, read with rules thereunder and other Generally Accepted Accounting Principles was filed as Annexures A20 of the petition.

13. We have heard the learned counsel for Petitioner Companies and perused the record carefully.

14. In the context of the above discussion, the Scheme of Arrangement

contemplated amongst the Petitioner Companies, appears to be prima facie in compliance with all the requirements stipulated under the relevant sections of the Companies Act, 2013. As the observations from the Statutory Authorities have been duly addressed by the Petitioner Companies and since all the requisite statutory compliance have been fulfilled, this Tribunal sanctions the composite Scheme of Arrangement appended as Annexure "A1" with the petition.

15. Notwithstanding the submission that no investigation is pending against the Petitioner Companies, if there is any deficiency found or, the violation committed qua any enactment, statutory rule or regulation, the sanction granted by this Tribunal will not come in the way of action being taken, albeit, in accordance with the law, against the concerned persons, directors and officials of the petitioners.

16. While approving the Scheme of Arrangement as above, it is clarified that this order should not be construed as an order in any way granting exemption from payment of stamp duty, taxes or any other charges, if any, payment is due or required in accordance with law or in respect to any permission/compliance with any other requirement which may be specifically required under any law.

THIS TRIBUNAL DO FURTHER ORDER:

i. That all the property, rights and powers of the Amalgamating Companies (i.e., Petitioner Companies Nos. 2, 4 and 5 and Petitioner Company No. 3 post demerger of Demerged Undertaking (as defined in the Scheme of Arrangement) be transferred, without further act or deed, to the Amalgamated Company (Petitioner Company No. 1) and accordingly, the same shall pursuant to Sections 66, 230 & 232 of the Act, be transferred to and vested in the Amalgamated Company (Petitioner Company No. 1) for all the estate and interest of the Amalgamating Companies (i.e., Petitioner Companies Nos. 2, 4 and 5 and Petitioner Company No. 3 post demerger of Demerged Undertaking) but subject nevertheless to all charges now affecting the same; and

ii. That all the liabilities and duties of the Amalgamating Companies (i.e., Petitioner Companies Nos. 2, 4 and 5 and Petitioner Company No. 3 post demerger of Demerged Undertaking) be transferred, without further act or deed, to the Amalgamated Company (Petitioner Company No. 1) and accordingly the same shall pursuant to Sections 66, 230 to 232 of the Act, be transferred to and become the liabilities and duties of the Amalgamated Company (Petitioner Company No. 1);

iii. All benefits, entitlements, incentives and concessions under incentive schemes and policies that the Amalgamating Companies (i.e., Petitioner Companies Nos. 2, 4 and 5 and Petitioner Company No. 3 post demerger of Demerged Undertaking) are entitled to include under Customs, Excise, Service Tax, VAT, Sales Tax, GST and Entry Tax and Income Tax laws, subsidy receivables from Government, grant from any governmental authorities, direct tax benefit/exemptions/deductions, shall, to the extent statutorily available and along with associated obligations, stand transferred to and be available to the Amalgamated

Company (Petitioner Company No. 1) as if the Amalgamated Company (Petitioner Company 1) was originally entitled to all such benefits, entitlements, incentives and concessions;

iv. All contracts, agreements, sanctions and permission of the Amalgamating Companies (i.e., Petitioner Companies Nos. 2, 4 and 5 and Petitioner Company No. 3 post demerger of Demerged Undertaking) which are subsisting or having effect immediately before the Effective Date, shall stand transferred to and vested in the Amalgamated Company (Petitioner Company No. 1) and be in full force and effect in favour of the Amalgamated Company (Petitioner Company No. 1) and may be enforced by or against it as fully and effectually as if, instead of the Amalgamating Companies (i.e., Petitioner Companies Nos. 2, 4 and 5 and Petitioner Company No. 3 post demerger of Demerged Undertaking), the Amalgamated Company (Petitioner Company No. 1) had been a party or beneficiary or obliged thereto;

v. All the employees of the Amalgamating Companies (i.e., Petitioner Companies Nos. 2, 4 and 5 and Petitioner Company no. 3 post demerger of Demerged Undertaking) shall be deemed to have become the employees and the staff of the Amalgamated Company (Petitioner Company No. 1) with effect from the Appointed Date, and shall stand transferred to the Amalgamated Company (Petitioner Company No. 1) without any interruption of service and on the terms and conditions no less favourable than those on which they are engaged by the Amalgamating Companies (i.e., Petitioner Companies Nos. 2, 4 and 5 and Petitioner Company No. 3 post demerger of Demerged Undertaking), as on the Effective Date, including in relation to the level of remuneration and contractual and statutory benefits, incentive plans, terminal benefits, gratuity plans, provident plans and any other retirement benefits;

vi. That all the property, rights and powers of the Demerged Undertaking of the Demerged Company (Petitioner Company No. 3) be transferred, without further act or deed, to the Resulting Company (Petitioner Company No.6) and accordingly, the same shall pursuant to Sections 230 & 232 and 66 of the Act, be transferred to and vested in the Resulting Company (Petitioner Company No.6) for all the estate and interest of the Demerged Undertaking of the Demerged Company (Petitioner Company No. 3) but subject nevertheless to all charges now affecting the same; and

vii. That all the liabilities and duties of the Demerged Undertaking of the Demerged Company (Petitioner Company No.3) be transferred, without further act or deed, to the Resulting Company (Petitioner Company No. 6) and accordingly the same shall pursuant to Sections 66, 230 to 232 of the Act, be transferred to and become the liabilities and duties of the Resulting Company (Petitioner Company No.6);

viii. All benefits, entitlements, incentives and concessions under incentive schemes and policies that the Demerged Undertaking of the Demerged Company

(Petitioner Company No. 3) are entitled to include under Customs, Excise, Service Tax, VAT, Sales Tax, GST and Entry Tax and Income Tax laws, subsidy receivables from Government, grant from any governmental authorities, direct tax benefit/exemptions/deductions, shall, to the extent statutorily available and along with associated obligations, stand transferred to and be available to the Resulting Company as if the Resulting Company (Petitioner Company No. 6) was originally entitled to all such benefits, entitlements, incentives and concessions;

ix. All contracts agreements, sanctions and permission of the Demerged Undertaking of the Demerged Company (Petitioner Company No. 3) which are subsisting or having effect immediately before the Effective Date, shall stand transferred to and vested in the Resulting Company (Petitioner Company No. 6) and be in full force and effect in favour of the Resulting Company (Petitioner Company No. 6) and may be enforced by or against it as fully and effectually as if, instead of the Demerged Undertaking of the Demerged Company (Petitioner Company No. 3), the Resulting Company (Petitioner Company No. 6) had been a party or beneficiary or obliged thereto;

x. All the employees of the Demerged Undertaking of the Demerged Company (Petitioner Company No. 3) shall be deemed to have become the employees and the staff of the Resulting Company (Petitioner Company No. 6) with effect from the Appointed Date, and shall stand transferred to the Resulting Company (Petitioner Company No. 6) without any interruption of service and on the terms and conditions no less favourable than those on which they are engaged by the Demerged Undertaking of the Demerged Company (Petitioner Company No. 3), as on the Effective Date, including in relation to the level of remuneration and contractual and statutory benefits, incentive plans, terminal benefits, gratuity plans, provident plans and any other retirement benefits;

xi. That the Appointed Date for the Scheme shall be the opening of business hours on 01.04.2020 as specified in the Scheme of Arrangement;

xii. That the legal proceedings or litigations if any, now pending by or against the Amalgamating Companies (i.e. Petitioner Companies Nos. 2, 4 and 5 and Petitioner Company No. 3 post demerger of Demerged Undertaking) be continued by or against the Amalgamated Company (Petitioner Company No. 1). Similarly, proceedings, if any, now pending by or against the Demerged Undertaking of the Demerged Company (Petitioner Company No. 3) be continued by or against the Resulting Company (Petitioner Company No. 6);

xiii. That as per the Scheme of Arrangement, the Amalgamated Company (Petitioner Company No. 1) and Resulting Company (Petitioner Company No. 6) shall without further application, allot shares of Amalgamated Company and Resulting Company to the shareholders of the Amalgamating Companies (i.e. Petitioner Companies Nos. 2, 4, 5 and 3 post demerger of Demerged Undertaking) and Demerged Company (Petitioner Company No. 3);

xiv. That the fee, if any, paid by the Amalgamating Companies (i.e., Petitioner

Companies Nos. 2, 4 and 5 and Petitioner Company no. 3 post demerger of Demerged Undertaking) on their authorized capital shall be set off against any fees payable by the Transferee Company (Petitioner Company Nos. 1) on its authorized capital subsequent to the sanction of the Scheme of Arrangement;

xv. That the carry forward and set off of accumulated losses in the Petitioner Companies, if any, shall be subject to applicable provisions of Income Tax including Section 72A and Section 79 of the Income Tax Act, 1961;

xvi. That the assessment under the Income Tax Act will be in accordance with the provisions of Section 170 (2A) of the Income Tax Act, 1961;

xvii. That the Amalgamated Company (Petitioner Company No. 1) shall comply with the provisions of section 13 of the Companies Act, 2013 to give the effect of change in object clause of the Amalgamated Company;

xviii. That the immovable properties of Amalgamating Company No.4 are to be transferred to the Transferee Company subject to all the procedure compliances as may be required under existing laws;

xix. That the Amalgamated Company (Petitioner Company No. 1) and Resulting Company (Petitioner Company No. 6) shall file the revised memorandum and articles of association with the concerned Registrar of Companies and further make the requisite payments of the differential fee (if any) for the enhancement of authorized capital of the Amalgamated Company (Petitioner Company No. 1); after setting off the fees paid by the Amalgamating Companies (i.e., Petitioner Companies Nos. 2, 4 and 5 and Petitioner Company No. 3 post demerger of Demerged Undertaking);

xx. That the Petitioner Companies shall, within 30 days after the date of receipt of this order, cause a certified copy of this order to be delivered to the concerned Registrar of Companies for registration and on such certified copy being so delivered, the Amalgamating Companies (i.e., Petitioner Companies Nos. 2, 4 and 5 and Petitioner Company No. 3 post demerger of Demerged Undertaking) shall be dissolved without undergoing the process of winding up. The concerned Registrar of Companies shall place all documents relating to the Amalgamating Companies (i.e., Petitioner Companies Nos. 2, 4 and 5 and Petitioner Company No. 3 post demerger of Demerged Undertaking) registered with him on the file relating to the said Transferee Company (Petitioner Company No. 1), and the files relating to the Companies and Amalgamated Company (Petitioner Company No. 1) shall be consolidated accordingly, as the case may be; and

xxi. That any person interested shall be at liberty to apply to this Tribunal in the above matter for any directions that may be necessary.

17. As per the aforesaid directions, formal orders in Form No. CAA-7 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 be issued after the filing of the Schedule of Properties within three weeks from the date of receiving a certified copy of this order by the petitioners.

18. All the concerned Regulatory Authorities to act on a copy of this order annexed with the Scheme of Arrangement duly authenticated by the Registrar of this Bench.

19. The Company Petition CP (CAA) No. 35/CHD/HRY/2022 is allowed, approved and disposed of accordingly.